

BEFORE THE SECURITIES COMMISSIONER  
STATE OF COLORADO

Case No. 2019-CDS-041

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**STIPULATION FOR CONSENT CEASE AND DESIST ORDER**

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IN THE MATTER OF Metals.com, TMTE, Inc., d/b/a/ METALS.COM,  
TEM, Inc., Chase Metals, LLC, Chase Metals Inc., Access Unlimited, LLC

Respondent.

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The Staff of the Colorado Division of Securities ("Staff") and Respondent Metals.com, TMTE, Inc., d/b/a/ METALS.COM, TEM, Inc., Chase Metals, LLC, Chase Metals Inc., Access Unlimited, LLC (together "Metals" or "Respondent") hereby enter into this Stipulation for Consent Cease and Desist Order in this matter as follows:

**I. Background**

1. The Staff conducted an investigation pursuant to § 11-51-601, C.R.S.
2. As a result of its investigation, the Staff alleges that Respondent engaged in the following conduct:
  - a. Respondent contacts investors with 401(k) and IRA accounts, seeking common ground to build trust.
  - b. Investors are provided documents discussing different ways of investing in precious metals and comparative information about the performance of metals and other investment vehicles. Investors are advised that metals are a "good play."
  - c. In addition, on at least one occasion, Respondent advised investors for compensation about their choice of investment vehicles. Specifically, on at least one occasion, Respondent provided advice to investors about particular securities.
  - d. Typically, Respondent fills out an application form on behalf of investors to establish a new "free" self-directed IRA account to receive the proceeds from the liquidated 401(k) or IRA account.

- e. After the self-directed IRA account has been established, on at least one occasion, Respondent held itself out to the custodian of the account to be liquidated as an investment adviser while guiding the investor through the process of liquidating the existing securities.
3. Based on the conduct set forth in sub-paragraphs 2(c) and (e), the Staff alleges that Respondent is an investment adviser as defined by § 11-51-201(9.5), C.R.S.
4. Based on the conduct set forth in sub-paragraphs 2(c) and (e), the Staff alleges that Respondent violated the licensing requirements of §§ 11-51-401(1.5), and 11-51-402(5), C.R.S., which constitutes grounds for the issuance of a cease and desist order.

## **II. Stipulation**

The Staff and Respondent, in order to resolve this matter without a formal hearing, hereby enter into this Stipulation for Consent Cease and Desist Order in this matter as follows:

1. The Securities Commissioner for the State of Colorado has jurisdiction over Respondent and the subject matter of this action.
2. Respondent agrees to the entry of a Consent Order in the form attached hereto as Exhibit A and incorporated by reference.
3. By entering into this Stipulation, Respondent neither admits nor denies that the Staff's allegations contained in this Stipulation are true.
4. By entering into this Stipulation, Metals.com, TMTE, Inc., d/b/a/ METALS.COM, TEM, Inc., Chase Metals, LLC, Chase Metals Inc., Access Unlimited, LLC agree to distribute this stipulation and the Consent Order to all officers, directors, agents, employees, and servants no later than 5 business days from the date the Commissioner executes the Consent Cease and Desist Order.
5. Respondent understands that it has the following rights: (1) to have a formal hearing pursuant to §§ 11-51-606(1) and (1.5), C.R.S.; (2) to be represented by counsel in that action; (3) to present a defense through oral or documentary evidence; (4) to cross-examine witnesses at such hearing; (5) to findings by the Securities Commissioner as required by § 11-51-606(1.5), C.R.S.; and (6) to seek judicial review of the Consent Order as provided in §§ 11-51-607 and 24-4-106, C.R.S. By

entering into this Stipulation, Respondent expressly waives the rights set forth in this paragraph.

6. As a condition to this Stipulation and Consent Order, Respondent jointly and severally agree to make an offer of rescission to all Colorado residents who established a self-directed IRA in connection with the purchase of precious metals (Eligible Colorado Investors). There are 21 known Eligible Colorado Investors who have sold securities valued at approximately \$2.9 million in their 401(k) and IRA accounts to purchase the equivalent value of precious metals from Respondent.. The Eligible Colorado Investors are identified in Exhibit B, which is incorporated herein by reference. The offer of rescission shall be extended no later 30 days after the date the Stipulation is signed. Respondent further agrees as follows:

- a. Respondent shall send a written offer of rescission approved by the Commissioner to all Eligible Colorado Investors at their last known address. The approved rescission offer is attached as Exhibit C and incorporated herein by reference.
- b. Respondent shall mail the offer of rescission to each Eligible Colorado Investor by certified mail and, if an email is available, by email no later than 30 days after the Stipulation is signed. If the offer is returned undelivered, Respondent shall use all information known to them and make reasonable efforts to locate the Eligible Colorado Investor and then send the offer by certified mail to the new address. Reasonable efforts include, but are not limited to contacting an Eligible Colorado Investor by home, business, or cellular telephone and mailing to a business, home and work address if known.
- c. Each investor identified in Exhibit B shall have 30 days from the date of receipt to accept or decline the offer of rescission in writing. The rescission offer will be deemed closed 40 days from the date the offer of rescission is sent. Each Eligible Colorado Investor who accepts the offer of rescission shall be required to return to Respondent the precious metals that are subject to the rescission offer.
- d. Respondent shall tender payment by wire transfer to each Eligible Colorado Investor who gave timely notice of rescission; payment will be made within 7 business days of the day Respondent receives the Eligible Colorado Investor's precious metals subject to the rescission offer. In the event of a delay of more than 21 days in Respondent receiving the precious metals

from any Eligible Colorado Investor who gave timely notice of rescission, Respondent shall notify the Colorado Division of Securities.

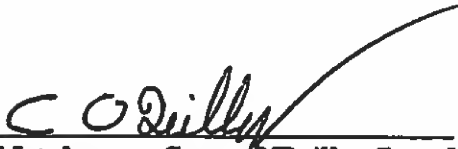
- e. Within 60 days of the date Respondent first sent notice of rescission to Eligible Colorado Investors, Respondent shall provide the Colorado Division of Securities with an initial list of all Eligible Colorado Investors who have completed the rescission process and received a refund.
- f. Within 120 days of the date Respondent first sent notice of rescission to Eligible Colorado Investors, Respondent shall submit to the Colorado Division of Securities an affidavit setting forth the following:
  - i. That the offer of rescission was sent out by certified mail to all Eligible Colorado Investors identified in Exhibit B;
  - ii. A status report identifying each Eligible Colorado Investor who accepted the rescission offer;
  - iii. The total dollar amount wire transferred to each Eligible Colorado Investor who accepted the rescission offer;
  - iv. The total number of Eligible Colorado Investors who accepted the rescission offer;
  - v. The total dollar amount repaid by wire transfer to all Eligible Colorado Investors; and
  - vi. The date Respondent completed all terms of the rescission offer.

Respondent shall attach to the affidavit copies of all responses received to the offer of rescission and official bank records showing that wire transfers were made to each Eligible Colorado Investor who accepted the rescission offer. In addition, the affidavit shall certify that each and every attached document is a true copy.

- 7. Respondent acknowledges that it has entered into this Stipulation voluntarily, after the opportunity to consult with counsel, and with the understanding of the legal consequences of this Stipulation and Consent Cease and Desist Order.
- 8. If the rescission set forth in paragraph 6 is not fully and timely completed or in the event that Respondent fails to comply with any of other terms and conditions of this Consent Order and Stipulation, the Securities Commissioner may refer this matter for enforcement as provided in § 11-51-602, C.R.S.

9. Respondent hereby waives the findings required by § 11-51-606(1.5)(d)(IV), C.R.S.; and pursuant to § 11-51-704(2), C.R.S., Respondent do not contest that the entry of this Consent Cease and Desist Order is necessary and appropriate in the public interest and is consistent with the purposes and provisions of the Act.
10. By consenting to the entry of the Consent Order, Respondent agrees not to take any action or to make, or permit to be made, any public statement denying, directly or indirectly, any Finding or Conclusion in the Consent Order or that the Order lacks a factual basis. However, Respondent is not prevented or restricted from making public statements about this matter that comply with the preceding sentence.
11. Respondent acknowledges that any violation of the Consent Order, when issued, may constitute grounds for further sanctions and formal proceedings against them for such violations.
12. This Stipulation is subject to approval by the Securities Commissioner, and shall become binding upon the parties hereto upon such approval.

**BY RESPONDENT:**

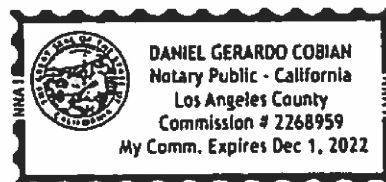


Metals.com, Conor O'Reilly, Compliance Officer

Subscribed and sworn before me this 11<sup>th</sup> day of July, 2019 in the County/City of Los Angeles, State of California by Conor O'Reilly.

Daniel Gerardo Cobian  
Notary Public

My Commission Expires: 12-1-2022



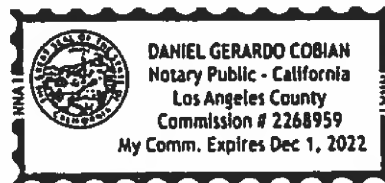
C O'Reilly

TMTE, Inc., d/b/a METALS.COM, Conor O'Reilly, Compliance Officer

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Notary Public

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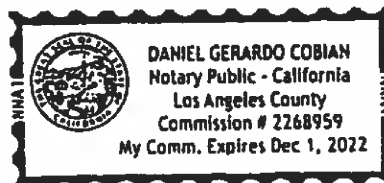
C O'Reilly

TEM, Inc., Conor O'Reilly, Compliance Officer

Subscribed and sworn before me this 11<sup>th</sup> day of July, 2019 in  
the County/City of Los Angeles, State of California by  
Conor O'Reilly.

Daniel Gerardo Cobian  
Notary Public

My Commission Expires: 12-1-2022



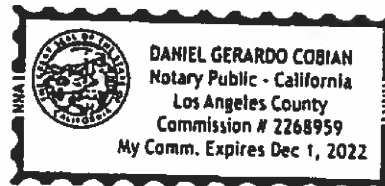
C O'Reilly

Chase Metals, LLC, Conor O'Reilly, Compliance Officer

Subscribed and sworn before me this 11<sup>th</sup> day of July, 2019 in  
the County/City of Los Angeles, State of California by  
Conor O'Reilly.

Daniel Gerardo Cobian  
Notary Public

My Commission Expires: 12-1-2022

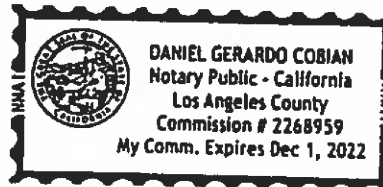


C O'Reilly  
Chase Metals Inc., Conor O'Reilly, Compliance Officer

Subscribed and sworn before me this 11<sup>th</sup> day of July, 2019 in  
the County/City of Los Angeles, State of California by  
Conor O'Reilly.

Daniel Gerardo Cobian  
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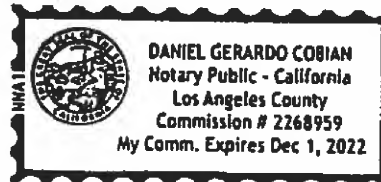


C O'Reilly  
Access Unlimited, LLC, Conor O'Reilly, Compliance Officer

Subscribed and sworn before me this 11<sup>th</sup> day of July, 2019 in  
the County/City of Los Angeles, State of California by  
Conor O'Reilly.

Daniel Gerardo Cobian  
Notary Public

My Commission Expires: 12-1-2022



**BY THE STAFF OF THE DIVISION OF SECURITIES:**

Jon Block  
David Cheval, Deputy Commissioner  
Jon Block, Chief Investigator

7/12/19  
Date


APPROVED AS TO FORM

PHILIP J. WEISER  
Attorney General

JONES DAY



ROBERT FINKE, 40756\*  
First Assistant Attorney General  
CATHERN H. SMITH, 39715\*  
Assistant Attorney General  
Attorneys for the Staff of the  
Colorado Division of Securities  
\*Counsel of Record



Shamoil T. Shipchandler  
Attorney for Metals.com, TMTE,  
Inc., d/b/a/ METALS.COM,  
TEM, Inc., Chase Metals, LLC,  
Chase Metals Inc., Access  
Unlimited, LLC (together "Metals")

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# EXHIBIT A

BEFORE THE SECURITIES COMMISSIONER  
STATE OF COLORADO

Case No. 2019-CDS-014

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CONSENT CEASE AND DESIST ORDER

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IN THE MATTER OF Metals.com, TMTE, Inc., d/b/a/ METALS.COM,  
TEM, Inc., Chase Metals, LLC, Chase Metals Inc., and Access Unlimited, LLC

Respondent.

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THIS MATTER is before Chris Myklebust, Securities Commissioner for the State of Colorado ("Commissioner"), on the Stipulation for Consent Order ("Stipulation") between the Staff of the Colorado Division of Securities ("Staff") and Metals.com, TMTE, Inc, d/b/a Metals.com, TEM, Inc., Chase Metals, LLC, Chase Metals, Inc. and Access Unlimited, LLC ("Respondent"). After reviewing the Stipulation and grounds therein, the Commissioner makes the following Findings and enters the Order as follows:

FINDINGS

1. The Commissioner has jurisdiction over Respondent and this matter pursuant to the provisions of the Colorado Securities Act, §§ 11-51-101 through 803, C.R.S.
2. By entering into the Stipulation, Respondent has waived the following rights: (1) to have a formal hearing pursuant to §§ 11-51-606(1) and (1.5), C.R.S.; (2) to be represented by counsel in that action; (3) to present a defense through oral or documentary evidence; (4) to cross-examine witnesses at such hearing; (5) to findings by the Securities Commissioner as required by § 11-51-606(1.5), C.R.S; and (6) to seek judicial review of the Consent Order as provided in §§ 11-51-607 and 24-4-106, C.R.S.
3. Respondent has further waived the findings required by § 11-51-606(1.5)(d)(IV) and does not contest that pursuant to § 11-51-704(2), C.R.S., entry of this Consent Order is necessary and appropriate in the public interest and is consistent with the purposes of the Colorado Securities Act.

## ORDER

NOW, THEREFORE, on the basis of the foregoing, it is hereby ORDERED as follows:

1. Respondent, its officers, directors, agents, employees, and servants, or any person who, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under the common control with Respondent, who receive actual notice of this Order by personal service or otherwise, are hereby immediately and permanently ordered to cease and desist from engaging in any of the following acts:
  - a. Transacting business in the State of Colorado as an investment advisor or as an investment advisor representative, as may be, in violation of the licensing requirements of §§ 11-51-401(1.5), (2.5) and 11-51-402(5), C.R.S., or
  - b. Otherwise engaging in conduct in violation of any provision of the Colorado Securities Act, §§ 11-51-101, C.R.S., *et seq.*
2. The terms of the Stipulation are incorporated into and made a part of this Consent Cease and Desist Order.
3. The Commissioner shall retain jurisdiction over this action to ensure Respondent's compliance with this Order and reserves the power to enter additional orders as needed to ensure the compliance by Respondent with this Order.
4. Respondent shall fully and timely complete the rescission process set forth in paragraph 6 of the Stipulation. If the rescission set forth in paragraph 6 is not fully and timely completed or in the event that Respondent fails to comply with any of other terms and conditions of this Consent Order and Stipulation, the Securities Commissioner may refer this matter for enforcement as provided in § 11-51-602, C.R.S.
5. This Consent Order, and the terms and conditions herein, shall be binding on all successors and assigns.

DATE: June 12, 2019



A handwritten signature in blue ink, appearing to read "Christopher", is written over a horizontal line.

**CHRIS MYKLEBUST**  
**Securities Commissioner**

# EXHIBIT B

# EXHIBIT C

[Customer Name  
Customer Mailing Address  
Customer Email Address]

July [-], 2019

Re: Offer of Rescission

Dear \_\_\_\_\_:

You are receiving this notice and offer of rescission under Colorado Securities Act, §§ 11-51-101 through 803, C.R.S. On July 10, 2019, Metals.com agreed to the entry of a cease and desist order by the Colorado Securities Commissioner related to Metals.com's sale of precious metals to certain customers in Colorado.

Under the terms of the order, Metals.com is making an offer to rescind precious metals transactions made by Colorado residents with funds from a 401(k) or IRA account. Our records show that you may be eligible for this rescission offer. On this basis, for each such transaction, Metals.com offers to:

- rescind the sale of precious metals you bought with funds from a 401(k) or IRA account;
- release you from all contractual obligations in connection with this sale; and
- refund you the full amount paid in connection with this sale

In exchange, you must return to Metals.com all of the precious metals subject to rescission under this offer. In addition, you agree to release Metals.com, as well as its directors, officers, employees, affiliates, and agents, of any contractual obligations made in connection with the sale of the precious metals subject to this rescission offer and waive all claims arising out of or relating to the offer or sale of the precious metals subject to this rescission offer.

You have 30 days from the date you received this notice to accept or decline in writing this offer of rescission. The rescission offer will be deemed closed 40 days from the date of this notice. The refund will be paid to your investment account within 30 days of Metals.com receiving the precious metals you bought.

If you decide to accept this offer of rescission, please do the following:

1. Check the appropriate box at the end of this letter and sign and return this letter to Metals.com by certified mail at the mailing address listed below;

2. Fill out the attached buy/sell direction letter to authorize the return of your precious metals to Metals.com and return the signed buy/sell direction letter to Metals.com by certified mail at the mailing address listed below.

Metals.com  
Attention: Conor O'Reilly  
433 N. Camden Drive Suite 970  
Beverly Hills, California 90210

Indicate below whether you accept or decline this offer.

☐ I accept this rescission offer.

☐ I decline this rescission offer.

If you have any questions, please contact Conor O'Reilly at 310-525-0030.

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Customer Signature

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Date



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

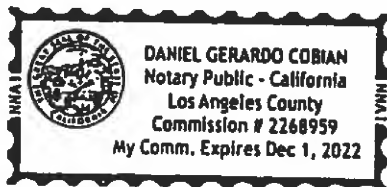
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Los Angeles )  
On 7-11-2019 before me, Daniel Gerardo Cobian - Notary Public,  
Date Here Insert Name and Title of the Officer  
personally appeared Conor O'Reilly  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_